

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DAVID PAUL JOHNSON,
MARSHALL WALTER JOHNSON, and
PAMELA MICHELLE JOHNSON,

Plaintiff,

v.

Case Number 04-10346-BC
Honorable Thomas L. Ludington

STATE OF MICHIGAN, *et al.*,

Defendants.

_____ /

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
AND DISMISSING WITHOUT PREJUDICE THE COMPLAINT**

This matter is before for the Court on a report issued by Magistrate Judge Charles E. Binder on March 21, 2008. The magistrate judge recommended that the Court dismiss without prejudice Plaintiffs' complaint for want of prosecution pursuant to Federal Rule of Procedure 41(b). None of the parties to this action filed objections to the report and recommendation. A party's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [Dkt. # 5] is **ADOPTED**.

It is further **ORDERED** that Plaintiffs' complaint is **DISMISSED WITHOUT PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: April 21, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 21, 2008.

s/Tracy A. Jacobs
TRACY A. JACOBS